

Amendment No. 1 to HB1005

Terry
Signature of Sponsor

AMEND Senate Bill No. 620*

House Bill No. 1005

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-3-502, is amended by deleting subsection (i) and substituting the following:

(i)

(1) Notwithstanding this section to the contrary, this subsection (i) governs manner of death determinations of death investigations for which suicide is suspected or determined to be the manner of death.

(2) If a county medical examiner suspects that suicide may be a potential manner of death, then the medical examiner shall consult the decedent's treating mental health professional or primary care physician, if known and reasonably able to be identified through the decedent's next of kin, prior to determination of manner of death.

(3)

(A) After inquiry by a county medical examiner pursuant to title 38, chapter 7, part 1, the medical examiner shall enter the manner of death and file the death certificate. If the manner of death is suicide and the next of kin disagrees with the manner of death determination, then the next of kin may contact the county medical examiner who performed the autopsy to request a meeting. The county medical examiner shall meet with the next of kin within thirty (30) calendar days of that initial contact by the requesting next of kin or, if more time is needed to gather documentation, on a mutually acceptable date. The meeting must be either in person or via teleconference, at the discretion of the requesting next of kin. At the meeting, each party must present the reasons

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supporting their position with respect to the manner of death, including any relevant documentation.

(B) Within thirty (30) calendar days of the meeting with the next of kin, the county medical examiner shall make a written determination on the manner of death and notify the next of kin. The notification must address the next of kin's specific bases for disagreement, inform the next of kin of their right to seek reconsideration from the office of the state chief medical examiner (OSCME), and include information on how to request the reconsideration. The notification must also inform the next of kin of their right to seek judicial review.

(4)

(A) Within one hundred twenty (120) calendar days of the notification of the manner of death from the county medical examiner, the next of kin may request reconsideration from the OSCME in writing.

(B) Within fifteen (15) calendar days of receiving the reconsideration request, the OSCME shall notify the county medical examiner of the reconsideration request and request all records and documentation from the county medical examiner and the next of kin.

(C) The county medical examiner shall send the requested records and documentation to the OSCME within fifteen (15) calendar days of receiving the request.

(D)

(i)

(a) Upon receipt of the records and documentation, the state chief medical examiner shall convene a peer review panel to conduct the reconsideration.

(b) The peer review panel must consist of the state chief medical examiner and all chief medical examiners of the regional forensic centers except for the chief medical examiner of the regional forensic center for the region in which the autopsy was performed. The state chief medical examiner shall serve as chair of the peer review panel.

(c) The chief medical examiners of the regional forensic centers may each appoint a designee to serve on the peer review panel. The designee must be a forensic pathologist licensed in this state who is employed by the regional forensic center.

(d) The state chief medical examiner may distribute records and documentation to the peer review panel members by electronic means. The panel may meet remotely via teleconference or video conference.

(ii) The peer review panel shall complete the reconsideration within ninety (90) calendar days of the date the OSCME receives the records and documentation from the county medical examiner. If the initial review indicates a need for additional investigation, then the peer review panel may use an additional ninety (90) calendar days to finalize their findings and must send written notification to the next of kin that the extra ninety-calendar-day period is necessary.

(iii) Once the members of the peer review panel have completed the review of the records and documentation, the members shall vote on a manner of death determination. The state chief medical examiner shall

not vote except in the event of a tie vote among all other panel members. A manner of death that achieves a simple majority of all panel members prevails, at which time a reconsideration investigation is deemed complete.

(iv) The state chief medical examiner shall prepare a written report of the peer review panel's findings and decision and shall detail in the report the panel's reasoning for its decision and an explanation of any additional investigation that was done. The state chief medical examiner shall send a copy of the report to the next of kin and the county medical examiner within fifteen (15) calendar days of the completion of the investigation.

(5)

(A) If the findings of a reconsideration conducted pursuant to subdivision (i)(4) support the original manner of death determination made by the county medical examiner, then the next of kin may appeal that decision to a court of competent jurisdiction.

(B) If the findings of a reconsideration conducted pursuant to subdivision (i)(4) support a manner of death determination other than suicide, then the state chief medical examiner shall, no later than fifteen (15) calendar days after the date of the written report, amend the manner of death.

(6)

(A) Next of kin may terminate a reconsideration process requested pursuant to this subsection (i) at any time and for any reason by written notice to the OSCME of their intent to terminate the reconsideration.

(B) Next of kin may seek judicial review at any time during the reconsideration process following the receipt of the original death certificate by written notice to the OSCME of their intent to seek judicial review.

(7) By requesting reconsideration under this subsection (i), the next of kin authorizes release of any medical records, hospital records, investigative reports, or other documentary evidence of the deceased that the peer review panel deems necessary to complete the reconsideration.

(8) The department of health shall maintain a notice of decedent's next of kin rights with regard to this subsection (i) on its public website.

(9) As used in this subsection (i), "next of kin" means the person who has the highest priority pursuant to § 62-5-703.

(10) This subsection (i) applies only when the manner of death is suspected or determined to be suicide.

(11) A physician, who acts in good faith to comply with this subsection (i), is immune from individual civil liability in the absence of gross negligence or willful misconduct for actions authorized by this subsection (i).

(12) Unrelated parties have no liability for relying on the original death certificate, without regard to subsequent revision under this part.

(13) OSCME shall maintain statistics on the number of reconsideration requests, the number of manner of death determinations that are upheld or overturned, and the number of next of kin terminations of a reconsideration process before the issuance of final findings. The OSCME may also maintain additional information relative to the reconsideration requests that may assist in carrying out other functions of the office.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it, and applies to manner of death determinations made on or after that date.